

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 28.8.2019

CORAM

THE HONOURABLE DR.JUSTICE VINEET KOTHARI
AND

THE HONOURABLE MR.JUSTICE C.V.KARTHIKEYAN

W.A.No.2895 of 2019

and

C.M.P.Nos.18638 & 18639 of 2019

K.M.Krishnan

Appellant/3rd Party

Versus

1. The Registrar
The Tamilnadu Dr.M.G.R.Medical
University,
No.69, Anna Salai, Guindy,
Chennai 600 032.
2. The Secretary,
Selection Committee,
Director of Medical Education,
Chennai.
3. The Secretary to the Government,
Health and Family Welfare Department,
Govt. of Tamilnadu, S.George Fort,
Chennai.Respondents/Respondents
4. Sri Muthukumaran Medical College Hospital
and Research Institute,
Chikkarayapuram Near Mangadu,
Chennai 600 069.
rep. by Chairperson Tmt.Gomathi Ammal

...4th Respondent/Writ Petitioner

Prayer: Writ Appeal filed under Clause 15 of Letters Patent
against the order of this court dated 19.8.2019 in W.P.No.23726
of 2019.

W.P.No.23726/2019:

Writ Petition is filed under Article 226 of the Constitution
of India, to issue Writ of Mandamus, directing the 1st respondent
to perform his statutory duties within such time as Hon'ble High
Court may prescribe and pass such further and other orders as
this Hon'ble High Court deem fit and proper by including the

Petitioner college in the seat matrix for the academic year 2019-2020 so as to enable admission of students before 31th August 2019.

For appellant : Mr.R.Singaravelu, Senior Counsel
for Mr.S.Sathish
For R1 : Mr.P.Elayarajkumaran
For R2 : Mr.Abdul Saleem
for M/s. Ramalingam Associates
For R3 : Mr.T.M.Pappaiah,
Special Government Pleader
For R4 : Mr.G.Masilamani, Senior Counsel
for Mr.T.Meikandan for R4

JUDGMENT

(Judgment of the court was made by Dr.VINEET KOTHARI, J.)

This Appeal has been filed by one K.M.Krishnan, son of Karimuthu, No.15, New Street, West Mambalam, Chennai 600 033, who claims to be a Social Activist, Whistle Blower working for public cause, who sought leave of this court to file Appeal against the order dated 19.8.2019 passed by the learned Single Judge in W.P.No.23726 of 2019 filed by Sri Muthukumaran Medical College Hospital & Research Institute against the Tamil Nadu Dr.M.G.R.Medical University, Selection Committee, Directorate of Medical Education and the Secretary to Government, Health and Family Welfare Department, Chennai.

2. The learned Single Judge, by the order impugned, disposed of the Writ Petition with a direction to the first respondent, the Tamil Nadu Dr.M.G.R.Medical University to grant Affiliation to the Petitioner Institution after getting an Undertaking from them that within a period of three months from the date of order viz., 19.8.2019, that they would rectify the deficiencies/defects pointed out by the Inspection Team.

3. The defects/deficiencies in the Petitioner Institution, pointed out by the Authorities concerned were certain infrastructural deficiencies including the lack of due approval from CMDA for construction of the building. In pursuance of the said order, it is submitted by the learned counsel appearing for the Writ Petitioner Institution and agreed by the learned counsel for the Respondent, University that the said Undertaking was duly produced by the Petitioner Institution and thereafter, Provisional Affiliation was also granted for the said Institution and in the ongoing process of Counseling for the course of MBBS in pursuance of NEET Examinations 2019, the process of Counseling has been concluded on 27.8.2019 and Admission, would be granted today (28.8.2019) to all the

students including on the seats under the Government Quota and Management Quota.

4. It appears that with the present Appellant had also filed a PIL Writ Petition in this court in W.P.No.17964 of 2019 for the same purpose which is said to be still pending in this court. In the said PIL Writ Petition also the said Respondent University as well as the Petitioner Institution are arrayed as Respondents 6 and 10 and the prayer made in the said Writ Petition is also to the effect that Respondents 1 and 2, the Government Authorities should take action against Respondents 3 and 6 for continuing Recognition and Affiliation to the 10th Respondent Medical College which, with unauthorised construction is undertaking the said educational activities.

5. Vide para 9 of the Affidavit in the said Writ Petition, it is also stated that he has also filed other two Writ Petitions in W.P.Nos.19812 of 2018 and W.P.No.2807 of 2019, which are also said to be pending. Therefore, it seems that the present Appellant is a constant litigant and court bird espousing purportedly the public causes but specially against these Respondents. Upon a court query, the learned counsel for the Appellant, Mr.S.Sathish has stated before the court that the Appellant was a Physical Education Teacher by profession, but, now he has retired. The Appellant Mr.K.M.Krishnan submits that since he was not impleaded as Respondent in the present Writ Petition filed by the Institution he has filed the present Appeal with Petition seeking leave of the court to file the present Appeal.

6. The matter is said to have been moved by Lunch Motion by the learned counsel on Monday, 26.8.2019 and by a detailed order came to be passed by a coordinate Bench of this court on 26.8.2019, vide para 16 of which, leave was granted to the Appellant and the coordinate Bench by interim order allowed the counseling to on as per schedule on 27.8.2019. Paragraphs 16 to 25 of the said order dated 26.8.2019 passed by the co-ordinate Bench are quoted below for ready reference:-

" 16. For the prima facie reasons, extracted supra, we are of the view that the proposed petitioner should be granted leave, to file an appeal against the order made in W.P.No.23726 of 2019, dated 19.08.2019. Hence, leave is granted. Registry is directed to assign writ appeal number.

17. Mr.Abdul Saleem, learned counsel for the Secretary, Selection Committee, Director of Medical Education, Chennai, acknowledges the submission of the learned senior counsel for the petitioner that counseling is scheduled at 2.00 p.m on 27.08.2019. Both Mr.R.Singharavelan, learned Senior Counsel for the petitioner as well as Mr.Abdul Saleem, learned counsel for the Selection Committee, Director of Medical Education, Chennai, submitted that counselling may go on, but results be withheld, we are of the view that instead of causing inconvenience to the students, who might approach the Selection Committee, for counselling, it is desirable to pass an interim order, which would not seriously prejudice the interest of all concerned.

18. Let the counseling go on 27.08.2019, as scheduled. Provisional selection and admission of any student in Sri Muthukumaran Medical College Hospital and Research Institute, Chennai, would be subject to the further orders of this Court. It is also made clear that the Secretary, Selection Committee, Director of Medical Education, Chennai/the 2nd respondent, will also publish in the official website of the Selection Committee, Director of Medical Education, Chennai, that provision selection and admission of any student, is at the risk of the student and subject to further orders of this Court, in the instant writ appeal.

19. Mr.R.Singharavelan, learned Senior Counsel, submitted that concession given is only for deciding the interim application for stay and not for final disposal, insofar as selection and admission are concerned.

20. Mr.Abdul Saleem, learned counsel for the Selection Committee, Director of Medical Education, Chennai, further submitted that a notice board will be put up, at the place where counseling is scheduled.

21. Medical Council of India, New Delhi and Chennai Metropolitan Development Authority, Chennai, are necessary and proper parties for effective adjudication of the issues involved in the instant writ appeal and therefore,

petitioner/appellant is granted permission to take steps for impleadment, thus, steps are taken as expeditiously as possible.

22. Notice to the Registrar, Tamil Nadu Dr.M.G.R.Medical University, Chennai and Sri Muthukumaran Medical College Hospital and Research Institute, Chennai, the respondents 1 and 4 respectively, through Court and privately.

23. Petitioner/Appellant is permitted to serve entire cause paper to the above respondents. Learned Senior Counsel appearing for the petitioner/appellant, requested that the matter be posted on 28.08.2019.

24. Registry is directed to post the matter on 28.08.2019.

25. Mr.V.Kadhirvelu, learned Special Government Pleader, for the Secretary to the Government, Health and Family Welfare Department, Government of Tamil Nadu, Chennai/the 3rd respondent and Mr.Abdul Saleem, learned counsel, for the Secretary, Selection Committee, Director of Medical Education, Chennai, shall communicate the orders of this Court to the above respondents, for implementation.

[S.M.K.,J.] [S.P., J.]

26.08.2019 "

7. The learned counsel for the Appellant Mr.S.Sathish drew our attention to the Newspaper Report published on 30th May 2019 and submitted that some deficiencies have been noticed in the Petitioner Institution including the lack of approval by the CMDA for the construction and therefore, he submitted that with the present deficiencies and illegalities continuing the Petitioner Institution, the Petitioner Institution could not have undertaken the said Admission procedure to put at risk the fate of the students so admitted in the ongoing counseling.

8. Having heard the learned counsel for the Appellant and also the Respondents, we are of the clear opinion that the Appellant is out and out to abuse the process of law of this court and he is only a self-proclaimed Champion of the students without any authority given by them and who are admitted upon counseling process undertaken not only as per the Schedule fixed by the Hon'ble Supreme Court but also on the Undertaking of the Petitioner Institution and the permission granted by the learned Single Judge in the order impugned. It is for the Petitioner Institution to give such Undertaking and for the University to consider the same and grant the provisional Affiliation which

has been so done as we have been informed by the learned counsels and the counseling process undertaken by the University and Admission process has to be finalised now. The public Bodies cannot be presumed to be working illegally and mala fide.

9. We fail to understand any public cause or public interest to be served by allowing a third party like the present Appellant to intervene in this matter with such frivolous and omnibus litigation. The present one being found as one of such, as we have noted earlier and another PIL Writ Petition filed by the same Appellant for the same purpose is already pending in this court, to have sought for leave of the court to intervene in this case and file the present Appeal.

10. The court has to guard the judicial process against such so-called RTI activists who indulges in pressure tactics or blackmailing activities against private institutions and roping in public Bodies as well by invoking the appellate jurisdiction of this court under Article 226 of the Constitution of India. By the two matters which we have noted above and atleast one PIL is directed against the Petitioner Institution and same University, we draw an adverse inference against the Appellant in the present case.

11. It is for the competent Government Bodies to ensure the compliance of laws by the Institution concerned and every citizen in the guise of being RTI activist or Whistle blower cannot be permitted to bring all sorts of complaints on the Board of this court under Article 226 of the Constitution of India. We are of the clear opinion that the leave granted in the present court to the appellant Mr.K.M.Krishnan deserves to be withdrawn as he cannot be said to have any locus standi whatsoever in the present case. But, since a coordinate Bench granted it, we have heard the Appeal on merits and are inclined to dismiss it.

12. The learned Single Judge, in our opinion, rightly did not pass any order on the application filed by him seeking impleadment in the present Writ Petition and such Application was not even being numbered by the time the Judgment under Appeal was passed by the learned Single Judge.

13. To desist and prohibit such frivolous Writ Petitioners or the Writ Appellant, which amount to glaring and sheer abuse of process of law, we order an imposition of cost of Rs.1,00,000/- (Rupees one lakhs) on the present Appellant, to be paid by him to the Legal Aid Fund maintained by the Tamil Nadu State Legal Services Authority. Such costs will be paid within a period of four weeks from today and if the proof of payment of such costs is not produced by him on the record of this court in this case, no further Petition or Appeal of the present Appellant Mr.K.M.Krishnan shall be entertained by the Registry

of this Court. With the above observations, the present Appeal is dismissed with costs. The connected Miscellaneous Petitions are also dismissed.

-s/d-

Assistant Registrar(CCC)

True Copy

Sub-Assistant Registrar

ssk.

To:

1. The Registrar
The Tamilnadu Dr.M.G.R.Medical
University,
No.69, Anna Salai, Guindy,
Chennai 600 032.
2. The Secretary,
Selection Committee,
Director of Medical Education,
Chennai.
3. The Secretary to the Government,
Health and Family Welfare Department,
Govt. of Tamilnadu, S.George Fort,
Chennai.
4. Sri Muthukumaran Medical College Hospital
and Research Institute,
Chikkarayapuram Near Mangadu,
Chennai 600 069.
rep. by Chairperson Tmt.Gomathi Ammal
- 5.The Secretary
Tamil Nadu State Legal Services Authority
Chennai .
- 6.The Registrar (Judicial)
High Court, Madras 104.
- 7.The Registrar(General)
High Court, Madras 104.
+1 CC to Mr.S.Sathish, advocate sr 74162.
+2 Ccs to M/s. Ramalingam Associates, sr 73868
+2 CCS to Mr.T.Meikandan, Advocate sr 73757.

W.A.No.2895 of 2019

VGI (CO)

SP(29/08/2019)